

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Dec 14, 2021

SEAN F. MCAVOY, CLERK

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9 UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF WASHINGTON

11 UNITED STATES OF AMERICA,

Case No. 2:21-CR-122-SMJ

12 Plaintiff,

Plea Agreement

13 v.

14 JUSTIN DEAN FRIEDLANDER,

15 Defendant.

16
17 Plaintiff United States of America, by and through Vanessa R. Waldref,
18 United States Attorney for the Eastern District of Washington, and Richard R.
19 Barker, Assistant United States Attorney for the Eastern District of Washington,
20 and Defendant JUSTIN DEAN FRIEDLANDER ("Defendant"), both individually
21 and by and through Defendant's counsel, Lorinda Youngcourt and Kathryn
22 Lucido, agree to the following Plea Agreement:

23 1) Guilty Plea and Maximum Statutory Penalties:

24 Defendant agrees to plead guilty to Count 2 of the Indictment dated
25 September 8, 2021, charging Defendant with Assault Resulting in Serious Bodily
26 Injury in Indian Country, in violation of 18 U.S.C. §§ 113(a)(6), 1153. Defendant
27 understands that this is a Class C Felony, carrying a maximum penalty of not more
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1 than a 10-year term of imprisonment; a fine not to exceed \$250,000; not more than
2 a 3-year term of supervised release; restitution; and a \$100 special penalty
3 assessment.

4 Defendant understands that a violation of a condition of supervised release
5 carries an additional penalty of re-imprisonment for all or part of the term of
6 supervised release without credit for time previously served on post-release
7 supervision.

8 2) The Court is Not a Party to the Agreement:

9 The Court is not a party to this Plea Agreement and may accept or reject this
10 Plea Agreement. Sentencing is a matter that is solely within the discretion of the
11 Court. Defendant understands that the Court is under no obligation to accept any
12 recommendations made by the United States and/or by Defendant; that the Court
13 will obtain an independent report and sentencing recommendation from the U.S.
14 Probation Office; and that the Court may, in its discretion, impose any sentence it
15 deems appropriate up to the statutory maximums stated in this Plea Agreement.
16 Defendant acknowledges that no promises of any type have been made to
17 Defendant with respect to the sentence the Court will impose in this matter.
18 Defendant understands that the Court is required to consider the applicable
19 sentencing guideline range, but may depart upward or downward under the
20 appropriate circumstances.
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22 Defendant also understands that should the sentencing judge decide not to
23 accept any of the parties' recommendations, that decision is not a basis for
24 withdrawing from this Plea Agreement or a basis for withdrawing this plea of
25 guilty.

26 3) Waiver of Constitutional Rights:
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1 Defendant understands that by entering this plea of guilty Defendant is
2 knowingly and voluntarily waiving certain constitutional rights, including:

- 3 a) The right to a jury trial;
4 b) The right to see, hear and question the witnesses;
5 c) The right to remain silent at trial;
6 d) The right to testify at trial; and
7 e) The right to compel witnesses to testify.

8 While Defendant is waiving certain constitutional rights, Defendant
9 understands that Defendant retains the right to be assisted through the sentencing
10 and any direct appeal of the conviction and sentence by an attorney, who will be
11 appointed at no cost if Defendant cannot afford to hire an attorney. Defendant also
12 acknowledges that any pretrial motions currently pending before the Court are
13 waived.
14

15 4) Elements of the Offense

16 The United States and Defendant stipulate and agree that in order to convict
17 Defendant of Assault Resulting in Serious Bodily Injury in violation of 18 U.S.C.
18 §§ 113(a)(6), 1153, the United States would have to prove beyond a reasonable
19 doubt the following elements:

20 *First*, on or about July 4, 2021, in the Eastern District of Washington,
21 Defendant assaulted L.H. by knowingly shooting him in the leg with a
22 firearm:

23 *Second*, as a result, L.H. suffered serious bodily injury;

24 *Third*, the assault took place within the external boundaries of the
25 Confederated Tribes of the Colville Reservation;

26 *Forth*, Defendant is an Indian and an enrolled member of the Confederated
27 Tribes of the Colville Reservation; and
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1 *Fifth*, the Confederated Tribes of the Colville Reservation is a federally
2 recognized tribe.

3 5) Factual Basis and Statement of Facts:

4 The United States and Defendant stipulate and agree that the following facts
5 are accurate; that the United States could prove these facts beyond a reasonable
6 doubt at trial; and these facts constitute an adequate factual basis for Defendant's
7 guilty plea. This statement of facts does not preclude either party from presenting
8 and arguing, for sentencing purposes, additional facts that are relevant to the
9 guideline computation or sentencing:
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11 On the evening of July 4, 2021, Defendant knowingly assaulted victim L.H.
12 by shooting him in the leg. That evening, L.H. was with his brother and a friend,
13 at 400 Edmonds Street, in Omak, Washington, which is within the external
14 boundaries of the Colville Reservation. Defendant, who is an enrolled member of
15 the Colville Tribe, pulled up in a silver Dodge Durango and flashed a .22 caliber
16 long rifle at L.H. The gun had a wooden stock. Defendant and L.H. got into a
17 verbal disagreement, and Defendant drove away.

18 Moments later, L.H. again saw Defendant, who had driven to an apartment
19 complex across the street. Defendant was parked in front of the complex.

20 Moments later, L.H. heard a single gunshot from the direction where Defendant
21 was parked. A bullet struck the back of L.H.'s left leg. Immediately after the
22 shooting, Defendant quickly drove the Durango away from the shooting scene.

23 After the shooting, Defendant drove to the 12 Tribes Casino. There, he met
24 up with a friend to whom Defendant confessed that he shot L.H. in the leg.
25 Surveillance video from the casino, shows Defendant move a long object, which
26 appears to be consistent with the firearm from the Durango to the friend's car. In a
27 subsequent search of Friedlander's vehicle, police recovered what appeared to be
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1 .22 caliber rounds of ammunition and a shell casing. The firearm was not
2 recovered.

3 After the shooting, L.H.'s brother drove L.H. to the hospital in Omak. From
4 Omak, L.H. was life-flighted to Sacred Heart Hospital in Spokane, Washington,
5 where L.H. was treated for a gunshot wound to his left leg. Medical personnel
6 confirmed that a bullet was lodged in L.H.'s leg and couldn't be removed without
7 risking further injury. Surgery was required to treat the gunshot wound. L.H.
8 confirmed to law enforcement he was 100% certain that Defendant was the person
9 who shot him in the left leg.

10
11 6) The United States Agrees:

12 The United States Attorney's Office for the Eastern District of Washington
13 agrees not to bring any additional charges against Defendant based upon
14 information in its possession at the time of this Plea Agreement and arising out of
15 Defendant's conduct involving illegal activity charged in the Indictment, unless
16 Defendant breaches this Plea Agreement any time before or after sentencing. At
17 the time of sentencing, the United States Attorney's Office for the Eastern District
18 of Washington further agrees to dismiss the remaining counts of the Indictment
19 dated September 8, 2021. Specifically, at the time of sentencing, the United States
20 agrees to dismiss Count 1 (Assault with a Dangerous Weapon in Indian Country)
21 and Count 3 (Felon in Possession of Ammunition).

22 7) United States Sentencing Guideline Calculations:

23 Defendant understands and acknowledges the United States Sentencing
24 Guidelines (hereinafter "U.S.S.G.") are applicable to this case and that the Court
25 will determine Defendant's applicable sentencing guideline range at the time of
26 sentencing.

27 a. *Base Offense Level*
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1 The United States and Defendant agree that the base offense level for assault
2 resulting in serious bodily injury is 14. *See* U.S.S.G. § 2A2.2(a).

3 *b. Specific Offense Characteristics:*

4 The parties agree that a firearm was discharged resulting in a five-level
5 upward adjustment pursuant to U.S.S.G. § 2A2.2(b)(2)(A). The parties also agree
6 that L.H. suffered serious bodily injury resulting in another five-level upward
7 adjustment pursuant to U.S.S.G. § 2A2.2(b)(3)(B).

8 *c. Acceptance of Responsibility:*

9 If Defendant pleads guilty and demonstrates recognition and an affirmative
10 acceptance of personal responsibility for the criminal conduct; provides complete
11 and accurate information during the sentencing process; does not commit any
12 obstructive conduct; accepts this Plea Agreement; and enters a plea of guilty prior
13 to the first scheduled pretrial conference after December 9, 2021, the United States
14 will recommend that Defendant receive a three (3) level downward adjustment for
15 acceptance of responsibility, pursuant to U.S.S.G. § 3E1.1(a).

16 Defendant and the United States agree that the United States may at its
17 option and upon written notice to Defendant, not recommend a three (3) level
18 downward reduction for acceptance of responsibility if, prior to the imposition of
19 sentence, Defendant is charged or convicted of any criminal offense whatsoever or
20 if Defendant tests positive for any controlled substance.

21 *d. Criminal History*

22 The United States and Defendant understand that Defendant's criminal
23 history computation is tentative and that ultimately Defendant's criminal history
24 category will be determined by the Court after review of the Presentence
25 Investigative Report. The United States and Defendant have made no agreement
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1 and make no representations as to the criminal history category, which shall be
2 determined after the Presentence Investigation Report is completed.

3 8) Departures

4 Defendant is free to seek downward departures or variances from the
5 applicable sentencing guideline range determined by the Court. The United States
6 is free to argue against any downward variances or departures. The United States
7 agrees not to move for any upward departures or variances from the applicable
8 sentencing guideline range as determined by the United States. The United States
9 and Defendant are free to argue for or against any additional guideline adjustments
10 that are not specifically addressed in this plea agreement but are found to apply in
11 the Presentence Investigation Report.
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13 9) Incarceration:

14 The United States agrees to recommend that the Court impose a sentence of
15 no greater than 60 months. Defendant is free to recommend any legal sentence.

16 10) Criminal Fine:

17 The parties agree to recommend the Court impose no criminal fine.

18 11) Supervised Release

19 The United States and Defendant agree to recommend that the Court impose
20 a three-year term of supervised release to include any special conditions as
21 determined by U.S. Probation.

22 12) Restitution:

23 The parties agree restitution is required. *See* 18 U.S.C. §§ 3663A, and 3664.
24 Further, pursuant to 18 U.S.C. § 3663(a)(3), Defendant voluntarily agrees to pay
25 the agreed upon restitution amount for all losses to all victims caused by
26 Defendant's individual conduct in exchange for the United States not bringing
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1 additional potential charges, regardless of whether counts of the Indictment dealing
2 with such losses will be dismissed as part of this Plea Agreement.

3 a. Restitution Amount and Interest

4 The parties hereby stipulate and agree that, pursuant to 18 U.S.C. §§ 3663A
5 and 3664, the Court should order restitution in an amount to be determined at or
6 before sentencing. The interest on this restitution amount, if any, should be
7 waived.

8 b. Payments

9 The parties agree the Court will set a payment schedule based on his
10 financial circumstances. *See* 18 U.S.C. § 3664(f)(2), (3)(A). Defendant agrees,
11 however, to pay not less than \$25 per month or 10% of his net monthly income,
12 whichever is greater, towards his restitution obligation.

13 c. Treasury Offset Program and Collection

14 Defendant understands the Treasury Offset Program (“TOP”) collects
15 delinquent debts owed to federal agencies. If applicable, the TOP may take part or
16 all of Defendant’s federal tax refund, federal retirement benefits, or other federal
17 benefits and apply these monies to Defendant’s restitution obligations. *See* 26
18 U.S.C. § 6402(d); 31 U.S.C. § 3720A; 31 U.S.C. § 3716.

19 Defendant also understands the United States may, notwithstanding the
20 Court-imposed payment schedule, pursue other avenues to ensure the restitution
21 obligation is satisfied, including, but not limited to, garnishment of available funds,
22 wages, or assets. *See* 18 U.S.C. §§ 3572, 3613, and 3664(m). Nothing in this
23 acknowledgment shall be construed to limit Defendant’s ability to assert any
24 specifically identified exemptions as provided by law, except as set forth in this
25 Plea Agreement.
26

27 d. Notifications
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1 Defendant agrees to notify the Court and the United States of any material
2 change in his economic circumstances (e.g., inheritances, monetary gifts, changed
3 employment, or income increases) that might affect his ability to pay restitution.
4 *See* 18 U.S.C. § 3664(k). This obligation ceases when the restitution is paid-in-full.

5 Defendant agrees to notify the United States of any address change within
6 30 days of that change. *See* 18 U.S.C. §3612(b)(F). This obligation ceases when
7 the restitution is paid-in-full.

8 13) Forfeiture

9 Defendant agrees to voluntarily forfeit any and all right, title, and interest he
10 has in any and all firearms and ammunition seized by the Federal Bureau of
11 Investigation (FBI) or the Confederated Tribe of the Colville Reservation, in favor
12 of the FBI or the Tribe. The assets to be forfeited include, but are not limited, to
13 any firearm or ammunition involved or used in the commission of the offense.

14 Defendant agrees not to contest the forfeiture of assets seized, in any
15 administrative forfeiture proceedings initiated by the FBI or the Tribe, and hereby
16 agrees to execute any and all forms, documents, and pleadings, if necessary, to
17 effectuate the administrative forfeiture of any assets in FBI or Tribal custody.
18 Defendant consents to the forfeiture, destruction, and/or return of assets to lawful
19 owners, without further notice.

20 Defendant agrees to hold all law enforcement agents and the United States,
21 its agents, and its employees harmless from any claims whatsoever arising in
22 connection with the seizure, forfeiture, destruction or return to lawful owner, of
23 any asset(s) covered by this agreement.

24 14) Mandatory Special Penalty Assessment:
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1 Defendant agrees to pay the \$100 in mandatory special penalty assessments
2 to the Clerk of Court for the Eastern District of Washington pursuant to 18 U.S.C.
3 § 3013.

4 15) Payments While Incarcerated:

5 If Defendant lacks the financial resources to pay the monetary obligations
6 imposed by the Court, Defendant agrees to earn the money to pay toward these
7 obligations by participating in the Bureau of Prisons' Inmate Financial
8 Responsibility Program.

9 16) Additional Violations of Law Can Void Plea Agreement:

10 Defendant and the United States agree that the United States may at its
11 option and upon written notice to Defendant, withdraw from this Plea Agreement
12 or modify its recommendation for sentence if, prior to the imposition of sentence,
13 Defendant is charged or convicted of any criminal offense whatsoever or if
14 Defendant tests positive for any controlled substance.

15 17) Appeal Rights:

16 Defendant understands that he has a limited right to appeal or challenge the
17 conviction and sentence imposed by the Court. Defendant hereby expressly
18 waives his right to appeal his conviction and the sentence the Court imposes, so
19 long as the Court imposes a sentence of incarceration that is 60 months or shorter.
20 Defendant further expressly waives his right to file any post-conviction motion
21 attacking his conviction and sentence, including a motion pursuant to 28 U.S.C. §
22 2255, except one based upon ineffective assistance of counsel based on
23 information not now known by Defendant and which, in the exercise of due
24 diligence, could not be known by Defendant by the time the Court imposes the
25 sentence.

26 18) Integration Clause:

1 The United States and Defendant acknowledge that this document
 2 constitutes the entire Plea Agreement between the United States and Defendant,
 3 and no other promises, agreements, or conditions exist between the United States
 4 and Defendant concerning the resolution of the case. This Plea Agreement is
 5 binding only upon the United States Attorney's Office for the Eastern District of
 6 Washington, and cannot bind other federal, state or local authorities. The United
 7 States and Defendant agree that this agreement cannot be modified except in a
 8 writing that is signed by the United States and Defendant.

9 Approvals and Signatures

10 Agreed and submitted on behalf of the United States Attorney's Office for
 11 the Eastern District of Washington.

13 Vanessa R. Waldref
 14 United States Attorney

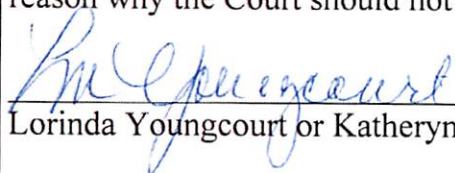
15 Richard R. Barker 12/10/21
 16 Richard R. Barker Date
 17 Assistant United States Attorney

19 I have read this Plea Agreement and have carefully reviewed and discussed
 20 every part of the agreement with my attorney. I understand and voluntarily enter
 21 into this Plea Agreement. Furthermore, I have consulted with my attorney about
 22 my rights, I understand those rights, and I am satisfied with the representation of
 23 my attorney in this case. No other promises or inducements have been made to
 24 me, other than those contained in this Plea Agreement and no one has threatened or
 25 forced me in any way to enter into this Plea Agreement. I am agreeing to plead
 26 guilty because I am guilty.

27 Justin Dean Friedlander 12-9-2021
 28 JUSTIN DEAN FRIEDLANDER Date

1 Defendant

2 I have read the Plea Agreement and have discussed the contents of the
3 agreement with my client. The Plea Agreement accurately and completely sets
4 forth the entirety of the agreement between the parties. I concur in my client's
5 decision to plead guilty as set forth in the Plea Agreement. There is no legal
6 reason why the Court should not accept Defendant's plea of guilty.
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8 
9 Lorinda Youngcourt or Katheryn Lucido

10 12-9-2021
11 Date
12 Attorney for Defendant
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